

Regulatory Requirements in Washington State



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"Children are miracles, not minimum
licensing standards."

- Anita Olds



Regulatory Requirements in Washington State

The various regulations that apply to facilities for children may not always appear to be consistent with each other and are sometimes interpreted and enforced differently by different jurisdictions, and by different code officials. While it may be frustrating to sort through these many layers of requirements, remember that their intent is to protect the health, safety and well-being of children above all else. Early and thorough conversations with licensors, health specialists, state fire marshals, and local code officials are essential to resolve conflicts before they become problems. Be sure to obtain current editions of all codes and requirements, as they are under constant review and are periodically revised.

DEPARTMENT OF SOCIAL & HEALTH SERVICES

All child care and school age centers **MUST** be licensed by Washington State Department of Social and Health Services (DSHS), Division of Child Care and Early Learning (DCCEL). The regulations enforced are included in the following documents:

“Minimum Licensing Requirements for Child Day Care Centers”. (Washington Administrative Code Chapter 388-150). Department of Social and Health Services. Current edition.

and

“Minimum Licensing Requirements for Child Day Care Centers Caring Exclusively for School-Age Children” (Washington Administrative Code Chapter 388-151). Department of Social and Health Services. Current edition.

These publications are available at no charge from: DSHS Forms & Publication Warehouse, PO Box 45816, Olympia WA 98504-5816; Phone (360) 753-1528; Fax (360) 664-0597. Website: www.wa.gov/dshs/geninfo/pubform

DSHS also publishes a very informative guidebook entitled, *The Child Care Center Licensing Guidebook – An Adult-Sized Guide to Child-Sized Environments* and a companion guide for school age care, *School-Age Care Companion Guide*. Both are available through regional licensors. Additional resources are included through their website: www.dshs.wa.gov/dccel.

Orientation seminars for prospective directors of child care and school age programs are provided by DCCEL and are highly recommended. Checking in early and often with the specific personnel who will ultimately license and regulate your facility will also help immensely to ease the development path. (See Appendix B for your regional contact.)

BUILDING & ZONING CODES

Construction projects, including new or remodeled child care and school age centers, typically require a building permit from the appropriate governing jurisdiction. Jurisdictions include municipalities and counties. To determine which jurisdiction has authority over your site, consult your local telephone directory's government listings for "building department" and call them to verify that your site is within their jurisdiction. A listing of all building officials in the state is also available at the website of the Washington Association of Building Officials: www.wabo.org. The building permit review process ensures your project complies with both zoning codes and building codes and includes payment of a review fee. Compliance with the zoning code and building code does not ensure compliance with licensing requirements.

Generally you will not need to apply for a building permit if you are proposing no physical changes to an existing building and the space has previously been permitted to be used as a child care or school age center. You may, however, be required by the Division of Child Care and Early Learning to upgrade certain features of the facility if there is a change of ownership of the child care or school age care center.

Zoning codes, created by each jurisdiction, are intended to help guide the development of land within a community in a harmonious way. Zoning codes define the types of uses that are allowed in specific geographic areas, or zones, as well as building setbacks from property lines, building height limits, minimum lot sizes, allowable coverage of lot areas, parking requirements and other elements. A copy of the local zoning regulations should be available at your local planning or building department. Verify that a child care or school age program is an allowed use in the zone within which your site is located, prior to making any commitments to that site.

Building codes regulate built structures, specifying maximum sizes of facilities, maximum number of stories, required exits and their configurations, fire resistive construction, number of plumbing fixtures, energy efficient performance of building components and requirements for barrier-free access, among other things. Washington State enforces amended versions of national building codes, including:

- Uniform Building Code
- Uniform Mechanical Code
- National Electric Code
- Uniform Plumbing Code
- Uniform Fire Code



Local jurisdictions may make additional amendments to these documents. Always refer to the current editions of the codes, complete with any local amendments. The most recent codes and the Washington State amendments are available on the State Building Code Council's website: www.sbccc.wa.gov. Local amendments can be obtained from your local building department.

Some jurisdictions also publish explanatory materials related to frequently asked questions or specific building types. For example, Seattle's Department of Design, Construction and Land Use (DCLU) publishes a Client Assistance Memo (CAM #108) entitled "Requirements for Operating a Day Care." Seattle's DCLU also issues additional code requirements called Director's Rules. The Seattle rules that apply to child care centers are: Director's Rule 14-99, "Special Conditions and Code Alternates for Day Care Centers" and Director's Rule 3-2001, "Approved Alternate Accessibility Guidelines for Building Elements Designed for Children's Use". These are useful documents even if your center is located outside Seattle.

In general, when talking with code officials, fully describe the goals and scope of your project and ask for all applicable information sheets, special regulations, publications and any other guidelines or supporting information that will be helpful to your efforts.

Another governmental agency enforces the state building code for modular / pre-manufactured buildings – The Washington State Department of Labor & Industries (L & I). Most typically, L & I plan review will only be required for modulars or building components newly installed on a site. If using a modular already on site, which has already been issued a Certificate of Occupancy, L & I review will not be required, even if modifications are made to the modular. Modifications to an installed modular will be reviewed through the local building department permitting process. L & I review of electrical modifications to an existing modular may be required if the local jurisdiction regularly uses L & I for this purpose. Consult with the state L & I Plan Review Supervisor at telephone number (360) 902-5218, the modular manufacturer, and your local building code official to more fully investigate any requirements that apply to your particular situation.

Washington State has not yet adopted the International Building Code (IBC), an alternative to the Uniform Building Code, but may do so in 2003 or 2004. Currently some jurisdictions allow alternative designs following the parameters of the IBC. Check with your local building department should you want to use the requirements in the IBC.

STATE FIRE MARSHAL

A representative from the Washington State Fire Marshal's office must inspect and approve the facility before it can be licensed. Their concerns are primarily related to fire and life safety requirements that can be found in the Uniform Building Code, the Uniform Fire Code, and their amendments as adopted under the State Building Code Act, RCW 19.27. The best guide for these requirements, available through your local DCCCL licensors (not through the Washington State Fire Marshal), is:

Washington State Patrol Fire Protection Bureau,
*Minimum Fire and Life Safety Requirements for
Childcare Centers*, October 1999.

In some cases, the way in which the regulations apply to your situation may not be clear. Work with your licensor and the Fire Marshal's representative to negotiate appropriate solutions that will ensure that fire and life safety measures are adequate. Be aware that you may need to meet both local and state fire codes, and that expensive fire protection upgrades, like sprinklers, may be required for existing facilities.

AMERICANS WITH DISABILITIES ACT (ADA)

In 1990 the federal government passed the

Americans with Disabilities Act (ADA), which requires buildings and facilities to be accessible to and usable by people with disabilities. The federal guidelines for the design of interior and exterior areas of buildings and facilities are called the "ADA Accessibility Guidelines" (ADAAG). Privately operated child care and school age centers must comply with Title III of the ADAAG.

In Washington State, the requirements are described in the "Washington State Regulations for Barrier-Free Facilities", found in the Washington State amendments to the Uniform Building Code, "Chapter 11 – Accessibility" and available through the Washington Association of Building Officials (website: www.wabo.org; telephone: (360) 586-6725). The U.S. Department of Justice has certified these Washington State requirements as meeting or exceeding the requirements of Title III of the ADA. If you apply for a building permit, these requirements will be enforced.

While the "Washington State Regulations for Barrier-Free Facilities" are specific to the ergonomics of the adult body, the federal ADAAG has recently been amended to include design standards specific to the ergonomics of children's bodies, entitled, "Building Elements Designed For Children's Use." Some local building officials will

accept the ADAAG guidelines developed specifically for children, even though they are not officially adopted by Washington State. You should check with your local building department during development of the facility's design to be sure you are providing appropriate clearances and installations. The Access Board can be reached at (800) 872-2253 (Voice) or (800) 993-2822 (TTY) or through their website: access-board.gov.

Child care services provided by state and local government agencies must also comply with Title II of the ADA. Helpful information is available on the Department of Justice's ADA Home Page: www.usdoj.gov/crt/ada/adahom1.htm. The ADA Information Line is (800) 514-0301 (Voice) and (800) 514-0383 (TDD).

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Young children's immune systems are highly sensitive to hazardous materials in the environment. These materials can cause lasting, serious damage to children's health and are frequently undetectable except with special testing. If you are considering renovating an existing building, there are several hazardous materials that you should be aware of and may need to test for. To ensure a healthy environment for children in your care, seriously

consider complying with hazardous materials abatement guidelines, whether you are required to do so or not.

■ Asbestos – Check with the EPA Asbestos Ombudsman Hotline at (800) 368-5888 or the website: yosemite.epa.gov/r10owcm.nsf/asbestos/asbestos to determine if the Asbestos Hazard Emergency Response Act (AHERA) covers your building.

■ Lead-Based Paint – Contact the EPA at (206) 553-1200 from Seattle or (800) 424-4372) outside Seattle or at their website: yosemite.epa.gov/r10/owcm.nsf/lead/lead1pg or contact the National Lead Information Center at (800) 424-5323 for guidance.

■ PCBs –The Toxic Substances Control Act regulates disposal of PCBs. Call (206) 553-1200 from Seattle or (800) 424-4372) outside Seattle or go to their website: yosemite.epa.gov/r10/owcm.nsf/pcb/pcb.

■ Underground Storage Tanks / Soil Contamination Research the existence of underground storage tanks and/or the status of contaminated soils remediation for any given site through the Leaking and Underground Storage Tanks

Program at the Washington State Department of Ecology website: www.ecy.wa.gov/programs.html, ('Toxic Cleanup' link) or simply by calling (800) 826-7716 and providing the address of the site under consideration for researching records on file, which cover through 1976. If the property is on tribal territories, you will need to check with the EPA for records under 'Indian Lands' contacts, accessible by link through the EPA Region 10 Site Index – 'Underground Storage Tanks'.

- **Indoor Air Quality** – Many respiratory problems are attributable to poor indoor air quality. Contact the EPA Indoor Air Quality INFO Hotline at (800) 438-4318. For the Indoor Air Quality Tools for Schools Action Kit call (800) 424-4372, ext. 2589.

- **Pest Management** – To reduce or eliminate the presence of pests and pesticides, call the EPA at (206) 553-1200 from Seattle or (800) 424-4372) outside Seattle or try the website: www.epa.gov/pesticides.

HEAD START

If your program includes a Head Start component, you need to verify compliance with the Head Start

regulations of the U.S. Department of Health and Human Services, Administration of Children, Youth and Families. These regulations are contained in:

“Information Memorandum 99-01: Final Rule on Purchase of Head Start Facilities”

and

“Proposed Rule for Construction and Renovation of Head Start Facilities”

Another helpful source of information is the “Head Start Center Design Guide” which explains the implementation of the regulations. All of these resources are available on their website: www.headstartinfo.org. There is also an excellent resource for Head Start programs at the website: www.headstartfacilities.org.

EARLY CHILDHOOD EDUCATION & ASSISTANCE PROGRAM (ECEAP)

If your program includes a Washington State Early Childhood Education and Assistance Program (ECEAP) component, you will need to verify compliance with ECEAP regulations, which are:

*ECEAP Program Performance Standards
(Revision 1.2),*



Appendix V RCW 28A.215 ECEAP Statute

and

Appendix VII WAC 365-170 Administrative Code – ECEAP

These documents, as well as other helpful resources, are available from their website: www.oed.wa.gov/info/csd/waeceap, through the 'Program Performance Standards' link. The best way to contact ECEAP is via e-mail: ECEAP_Admin@cted.wa.gov or HeadStartStateMatch@cted.wa.gov. Their telephone number is (360) 725-283.

PLAYGROUND EQUIPMENT

DCCEL licensors adhere to the safety standards for outdoor play equipment published by the American Society of Testing and Materials (ASTM):

ASTM Publication F-1487 Standard Consumer Safety Performance Specifications for Playground Equipment (website: www.astm.org; telephone: (610) 832-9585)

Another helpful resource in the design of playgrounds is the:

Handbook for Playground Safety, U.S. Consumer Product Safety Commission, Washington D.C., 20207 (no charge; website: www.cpsc.gov; telephone: (800) 638-2772)

Be very attentive to meeting all playground equipment specifications, such as clearances around climbing structures and safety surfacing below. Regardless of whether you install equipment made by a manufacturer or you build your own, the liability associated with providing playground climbing equipment has become a significant factor in the business of caring for children.

